

**MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK**

**INFORMAL SESSION  
February 4, 2002**

The Board of Supervisors of Maricopa County, Arizona convened at 9:00 a.m., February 4, 2002, in the Board of Supervisors' Conference Room, Tenth Floor, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Don Stapley, Chairman; Fulton Brock, Vice Chairman; Andy Kunasek, Jan Brewer, Mary Rose Wilcox (entered late), Fran McCarroll, Clerk of the Board; and Jessie Burning, Administrative Coordinator. Also present: Sandi Wilson, Deputy County Administrative Officer; and Paul Golab, Deputy County Attorney. Votes of the Members will be recorded as follows: (aye-no-absent-abstain)

**PRESENTATION AND DISCUSSION: BROWNFIELDS TAX ABATEMENT LEGISLATION ~ CLERK OF THE BOARD**

Item: Presentation regarding the Brownfields Tax Abatement legislation enacted last year as HB 2432. The presentation will outline the information needed to determine qualification for the abatement and will request guidance from the Board concerning the development of a policy or procedure regarding requests for tax abatement. (ADM2138)

Fran McCarroll, Clerk of the Board, and chairman of the committee, began the presentation by introducing the other members of the Brownfields Committee as follows;

- ✓ Al Brown, Director, Environmental Services
- ✓ Rita Neill, Risk Management
- ✓ Bill Knopf, County Counsel
- ✓ Bill Riske, County Counsel
- ✓ Sandy Shuch, County Counsel
- ✓ Fred Kelly, Chief Deputy, Assessor's Office
- ✓ Dave Browning, Treasurer's Office
- ✓ Page Gonzalez, Government Relations

Ms. McCarroll explained that she will present the research and investigation produced by The Brownfields Tax Reduction Committee.

Supervisor Brewer asked how the committee was established.

Ms. McCarroll pointed out that the Brownfields Committee was formed after legislation was passed last year with an effective date of December 31, 2001. Several individuals with expertise in the area decided that the legislation should be reviewed and the Board of Supervisors consulted as to what should be done in Maricopa County.

**~ Supervisor Wilcox entered the meeting ~**

Supervisor Brewer asked if legislation had designated what departments or offices should be involved in the process of the Brownfields Tax Reduction for the County. Ms. McCarroll responded that the legislation didn't include designation. However, the main oversight would fall in Environmental Services and Risk Management. The Assessor's Office would also be needed for assessing the value of properties under review, and the Treasurer's Office for assistance with taxes. The committee began selecting individuals that have expertise in the pertinent areas of the legislation.

**INFORMAL SESSION  
February 4, 2002**

Chairman Stapley added that he had asked Ms. McCarroll to schedule this presentation after he had had a briefing on the program.

Ms. McCarroll explained that the intent of the legislation is to promote the cleanup of contaminated properties by providing a financial incentive through a tax reduction. The benefits of the program include stimulating new tax revenue, improving neighborhoods and reducing risks to the environment.

The intent is to provide a win/win situation for everyone involved. Ms. McCarroll added that the goal of the Brownfields Committee today, is to present the results of their research and investigation. If a tax reduction request was to come before the County, the committee tried to determine what type of information would be required to present the request to the Board. Although current legislation already allows the Board to comprise taxes under certain conditions, the amended legislation adds a provision for contaminated property. The amendment explains that if property is determined to be "substantially contaminated with hazardous substances or petroleum the Board may reduce the lien for delinquent taxes, interest, costs and penalties..." ARS. § 42-18124.

The basic components of the legislation include; 1) 5-year window dependent upon date property was/is acquired, 2) Reduction cannot exceed actual expenses to mitigate the condition, 3) Reduction in taxes cannot exceed actual expenses to mitigate the condition, 4) Only "reasonable and necessary" expenses may be considered and, 5) Applicant cannot be a "responsible party" or related to a responsible party that is responsible for the contamination or hazardous problem.

Supervisor Brewer asked what would be considered "reasonable and necessary".

Ms. McCarroll responded that although the statute did outline some specific points, the final determination would be the Board's.

In response to a question from Supervisor Kunasek regarding the definition of "responsible party", Ms. McCarroll explained that the "responsible party" is the person who caused the hazard. She added that the statute was very specific in explaining that the applicant could not be in any way related to the responsible party.

Supervisor Brock commented on abandon gas stations which often occupy prime corner locations. He asked if this program would apply to these sites. Ms. McCarroll responded that this program would apply and in addition, there are various grants available through federal, state and city governments. She also noted that President Bush had recently signed legislation authorizing \$200 million for Brownfields' programs.

Ms. McCarroll continued by explaining that the new legislation gave the Board discretion to reduce any outstanding tax liability by the amount expended on the property clean-up.

Al Brown, Director, Environmental Services, came forward to add information. He stated that the Board of Supervisors could consider entering into "prospective purchaser's agreements". These agreements would involve the person who intends to clean-up the property. Although it make take several years to complete the "clean-up", the agreement would serve as a statement of intent to reduce taxes at the project completion.

Supervisor Kunasek asked if other jurisdictions would have any involvement in the approval process since certain allocations of the back-taxes belonged to them. He clarified that only a portion of the tax bill is the County's. The remaining amount is a compilation of taxes owed to school districts, cities and towns, and special districts.

Bill Knopf, County Attorney's Office, stated that the program is part of a compromise statute which permits the Board of Supervisors to compromise taxes. The compromise does not involve the other taxing jurisdictions. However, the Board may have an interest in the opinion of the other taxing districts and could include them in the review process.

Chairman Stapley asked about a situation where the tax lien or Certificate of Purchase (CP) has been sold, how does this party become involved in this kind of a compromise.

Mr. Knopf stated that the legislation does not deal with that type of situation. If a tax lien has been sold, in effect, the taxes have been paid to the County.

Ms. McCarroll added that the committee had discussed this issue, and although the County could not grant forgiveness for those taxes, the County could facilitate a collaboration between the prospective buyer and the individual who holds the prior Certificate of Purchase. Should the property taxes continue to mount year after year, the holder of the CP will never receive a return on their investment.

Ms. McCarroll continued the presentation by reviewing the application process as follows;

Application /Determination Process

- Application submitted
- Committee Review
- Application presented to BOS for initial determination/contract negotiation – if dealing with prospective buyer
- Mitigation work is completed
- Expenses submitted for review for reduction of the taxes
- BOS final determination/if approved – direction to the Treasurer to reduce the taxes

Supervisor Brock asked if it is possible for a potential buyer to expend a great deal of money in the hopes of receiving a tax reduction.

Ms. McCarroll stated that the issue was discussed with the committee; no one would desire to purchase property on only the potential promise of a tax reduction. However, with the submitted application and initial review, a contract could be negotiated if the individuals meet the conditions. At that point, there is a firm promise of a reduction of taxes.

In response to a question from Supervisor Brock regarding mitigation expenses that exceed the tax liability, Ms. McCarroll responded that the Board is constrained by the actual amount of taxes, penalties, and interest owing. If the cost for clean-up should exceed the amount of taxes owed, there would not be a larger tax credit.

**MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK**

**INFORMAL SESSION  
February 4, 2002**

Chairman Stapley added that in situations such as this, an application for a "Super-Fund" clean-up could take place using federal dollars. Ms. McCarroll added that the County application also lists quite a number of other programs which provide assistance with hazardous waste clean-up.

Supervisor Wilcox stated that cities also have programs and will partner with other jurisdictions to help out. She mentioned that Rosanne Sanchez (in the audience) is not only the Director of the Brownfields program for Phoenix, but also an expert in the field.

Ms. McCarroll listed the departments who would be called upon to review applications:

- ✓ Clerk of the Board of Supervisors
- ✓ Environmental Services
- ✓ Risk Management
- ✓ County Attorney
- ✓ Assessor
- ✓ Treasurer
- ✓ County Administrator
- ✓ Office of Management and Budget

The Clerk of the Board's Office would be the intake point for the submittal of the application. After submittal, the Clerk would distribute the paperwork to each department for review. Each department would do an independent review and then meet together for a concurrent review of the entire application. Each department would bring their area of expertise to the table to review the application. The application would then be presented to the Board of Supervisors. Should the Board decide to proceed, a contract would then be created at the Board's direction. The review committee would convene again at the end of the clean-up to review expenses, making sure that information was sufficient before the final presentation to the Board.

Ms. McCarroll presented a draft application with the following sections:

- 1) Property and Applicant/owner information – this will detail where the property is located; the expected date of acquisition; and owner information such as; individual, or corporation.
- 2) Environmental information – outlines the type of contamination to the property; information on responsible party; involvement with any regulatory programs or any legal action regarding the property; and a "Phase I Environmental Survey".
- 3) Financial information – applicant's estimate of project costs; financing plan; grants or federal programs; and an explanation and agreement regarding reimbursable costs.
- 4) Affidavits – responsible party and final expense affidavits.

Supervisor Brewer asked if there was any idea of the number of applicants for the tax-abatement. Ms. McCarroll replied that there are two applicants ready to begin at this time: one downtown and one in the Encanto area. She mentioned that Rosanne Sanchez with the City of Phoenix, may know of more applicants that may be waiting.

Supervisor Brewer also asked if there was any estimation on the amount of dollars in taxes that might be waived. Ms. McCarroll stated at this point there is no current estimate.

**MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK**

**INFORMAL SESSION  
February 4, 2002**

Chairman Stapley invited Ms. Sanchez forward for questions. He asked how the City of Phoenix views the Brownfields legislation, and if it is wise for the County to become pro-active in this area.

Rosanne Sanchez, Brownfields Project Manager for the City of Phoenix, stated that she has been working very closely with Supervisor Wilcox's Office, and the Brownfields Committee in regards to the this legislation. Everyone involved believes that the legislation is a great benefit. Presently, there are not a lot of sites in Phoenix, however, with the Washington Fluff and Deer Valley (Encanto) sites the tax delinquency is significant enough that without the Brownfields legislation the property would continue to be useless. Ms. Sanchez added that she doesn't anticipate many "hazardous sites". Generally, if property taxes are past due in smaller dollar amounts, it's easier for a prospective buyer to take that amount into consideration when purchasing a site. So, what is being considered for this program is the "worst of the worst" in site conditions and tax monies owed.

Supervisor Kunasek suggested that the review committee include a representative from one of the other taxing jurisdictions. He added that he realizes the individual would only fill an advisory position, however, it could be beneficial to have input from another jurisdiction.

Chairman Stapley commented on Supervisor Kunasek's suggestion, and added that he thought it was a good idea.

Supervisor Wilcox stated that the application involved a significant effort, and reiterated that it will be the worst of the sites who will apply for the Brownfields Program. In order to go through all the steps, it will involve a lot of cooperation. Brownfields sites are required to be so designated. Ms. Wilcox added that the Washington Fluff site was terrible. It's a very tough issue, but it's also a tool that will assist in putting sites back on the tax roll and enable the site to be productive again. She added how excited her District is to have the Washington Fluff site as an early candidate for the program.

Supervisor Brewer asked for a better understanding in where the Washington Fluff site is specifically located.

Ms. Sanchez said that the site is actually located at 5<sup>th</sup> Street and Buckeye and is a 10 acre site, abandoned since the mid-eighties. Formerly, it was an auto and metal salvage facility. National Metals used to be a tenant at the facility, and filed bankruptcy as well as the previous owner. There is no responsible party anywhere to be found. The site is also known as a "fluff site" which refers to the material remaining after automobiles are shredded. The "fluff" usually contains lead, various metals and in this case, transformers which contaminated the soil with PCB's.

**~ Supervisor Brock left the meeting ~**  
(he did not return)

Ms McCarroll mentioned that there was one more item that the committee had discussed, which would include building a liaison relationship with the Arizona Department of Environmental Quality (ADEQ), since the program would involve working together with ADEQ throughout a clean-up project.

Chairman Stapley stated that the presentation today was for discussion not action. The direction from the Board is for the Brownfields Committee to return with an action item to allow the Board to move forward. Chairman Stapley added that he thought the recommendations from the committee were very good.

**INFORMAL SESSION  
February 4, 2002**

**FOR ACTION: PARTICIPANT AGREEMENTS AND ACCEPTANCE OF GRANT FUNDING FROM THE ARIZONA STATE PARKS BOARD**

Sheriff's Office – Item: Increases to the Participant Agreements and acceptance of grant funding from the Arizona State Parks Board for the following two items:

- a) Increase of \$3,983 - The previous agreement was \$305,406 for Boat House Construction on Canyon and Saguaro Lakes. The Board approved a total of \$325,855 which included \$20,449 of FY 2001-2002 General Government Appropriated Fund Balance General Fund Programs to fund the portion of the soft match related to professional design work fees which will likely be spent this fiscal year upon official notification of receipt. The total project cost is now \$335,946 and includes the remaining portion of the soft match, \$6,108, for a currently budgeted position to oversee construction of the project. This grant reimbursement will occur in FY 2002-2003; therefore, approval to budget this increase in the Sheriff's Office FY 2002-2003 revenue and expenditure levels by the new award amount \$309,389 is also requested. The Sheriff's Office indirect cost rate is 27.3%. There are no indirect costs supported by this grant funding as federal law (OMB Circular A-87) precludes charging indirect costs on grant purchases of capital assets. (C5001049303)
- b) Increase of \$26,416 - for construction of a Boating Safety Education Center and Aid Station, for a total grant award of \$756,760. The total cost of the project is \$803,378, which includes the grant match of \$46,618 (Board appropriated amount of \$31,105 in FY 2001-2002 General Government Appropriated Fund Balance General Fund Programs, and \$15,513 budgeted in the Sheriff's Office budget for the soft match related to professional fees). Approval to budget this amount as carry over in FY 2002-2003 is being sought at this time. This grant reimbursement will occur in FY 2002-2003; therefore, approval to budget this increase in the Sheriff's Office FY 2002-2003 revenue and expenditure levels by the new award amount of \$756,760 is also requested. The Sheriff's Office indirect cost rate is 27.3%. There are no indirect costs supported by this grant funding as federal law (OMB Circular A-87) precludes charging indirect costs on grant purchases of capital assets. (C5001051303)

Motion was made by Supervisor Brewer, seconded by Supervisor Wilcox, and unanimously carried (4-0-1) to approve items a) and b) for increases to the Participant Agreements and acceptance of grant funding from the Arizona State Parks Board as recommended.

**MEETING ADJOURNED**

There being no further business to come before the Board, the meeting was adjourned.

---

Don Stapley, Chairman of the Board

ATTEST:

---

***MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK***

**INFORMAL SESSION  
February 4, 2002**

Fran McCarroll, Clerk of the Board